

**LEASE AGREEMENT
BETWEEN
MONTGOMERY COUNTY, MARYLAND
AND
THE STRATHMORE HALL FOUNDATION
INCORPORATED**

DATED: October 1, 2004

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LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease"), entered into this _____ day of October, 2004 by and between **MONTGOMERY COUNTY, MARYLAND**, a body corporate and politic and a political subdivision of the State of Maryland (the "County" or "Landlord") and **THE STRATHMORE HALL FOUNDATION, INCORPORATED**, a Maryland non-profit corporation (the "Tenant"), (the County and the Tenant together the "Parties").

WITNESSETH

In consideration of the covenants contained in this Lease, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the Parties mutually agree as follows:

1. COUNTY PREMISES:

A. Definition: The County hereby leases and demises to the Tenant certain property located in Montgomery County, Maryland more particularly described as a parcel of improved real property containing approximately 11 (eleven) acres located in the northeast quadrant of the intersection of Maryland Route 355 and Tuckerman Lane, being a portion of a parcel containing 30.18 acres that was conveyed to the County by the Sisters of the Holy Cross Hospital Association, in a conveyance recorded among the Land Records of Montgomery County, Maryland in Liber 4928 at Folio 482 (the "County Premises"). The County Premises includes the existing buildings located on the above described property known as the "Old Corby Mansion" or the "Mansion" and the newly constructed "Venue" for the performing arts, also known as "The Music Center at Strathmore", as well as future buildings which may be built on the property as well as existing and future walkways, the parking lot, driveway, and the remainder of the 11 (eleven) acres contiguous to the Mansion and the Venue. The Mansion and

surrounding property is shown on Exhibit A-1 and Exhibit A-2, both of which are attached and incorporated as if fully set forth in this Lease. All improvements, buildings and structures located on the County Premises are collectively referred to as the "Buildings." The improved County Premises are also known as and referred to in this Lease as "Strathmore."

B. Parking:

1. During the Term of this Lease and so long as Tenant is not in default of the terms of this Lease, Tenant will have the use, and will control the management and operation of all parking facilities provided on the County Premises.

2. Tenant acknowledges that the County will be entering into an agreement with the Washington Metropolitan Area Transit Authority ("WMATA") for the use of the Grosvenor-Strathmore Metro Garage and the Metrobus facilities by Strathmore's patrons in substantially the same form as detailed in Exhibit B, which is attached and incorporated as if fully set forth in this Lease. Tenant will provide a certification of ticket sales and remit payments for parking in accordance with Exhibit B or as directed by the County.

3. Tenant must pay WMATA all User Fees and other costs and fees due under Exhibit B. In the event that Tenant does not timely pay any cost or fee when due, the County may elect to pay the cost or fee then due, and will notify Strathmore in writing. Any amount paid by the County will be deemed additional rent, and must be paid by Tenant not later than thirty (30) days after Tenant receives written notice from the County.

2. **TERM:** The Initial Term of this Lease (the "Initial Term") is 15 (fifteen) years, commencing on the 1st day of October, 2004 and expiring on September 30, 2019. The Term of the Lease is the Initial Term plus any Renewal Terms (defined below).

3. RENEWAL OPTIONS:

A. **Renewal Term:** Subject to the determination of the Review Board (defined below), upon the conclusion of the Initial Term or any then current Renewal Term (defined below), this Lease shall be automatically renewed under the same terms and conditions as the Initial Term as amended by mutual written agreement of the Parties for not more than four (4) additional consecutive 10 (ten) year terms, each additional consecutive 10 year term known as a "Renewal Term." Notwithstanding the foregoing, either Party may give the other written notice, not less than three (3) years prior to the expiration of the initial Term or the then current Renewal Term, of its intention not to renew the Lease or of its desire to renegotiate any of the provisions or conditions then in effect. In the latter case, written notice shall specify what alterations, amendments, deletions or additions are desired. This provision must not be interpreted to prohibit the Parties from negotiating changes to the Lease at any time during the Lease Term.

B. **Review Board:** The County may require a review panel (the "Review Board") to conduct a review of Tenant's finances and mission to determine that Tenant is (i) managing its finances in a manner comparable to other similar arts organizations in the Washington-Baltimore region; and (ii) adequately and actively involving community representation in its programming and planning functions. The Review Board shall consist of three (3) individuals knowledgeable in arts management, at least two (2) of whom must have familiarity with arts activity in Montgomery County. The County Executive will appoint the chair of the Review Board. The Chair of the Board of Directors of Tenant will appoint one member and the Parties will mutually select one other member. During the Initial Term or any Renewal Term, Tenant, must notify County in writing prior to 48 (forty eight) months and prior to 42 (forty two) months before the expiration of the then current Term, of its need to consider the utilization of the Review Board. The Review Board must complete its review no later than

36 (thirty six) months prior to the expiration of the then current Term. Upon completion of its review, the Review Board will report its findings to the County Executive and to Tenant. If the Review Board determines that Tenant is deficient in meeting the criteria set forth above, the then County Executive, in the Executive's sole discretion, may determine either: (i) not to renew this Lease; or (ii) require Tenant to resolve such deficiencies to the satisfaction of the County for the following Renewal Term. The County will provide the County's determination to the Tenant in writing not later than 36 (thirty six) months prior to the expiration of the then current Term so as to minimize the impact on programming contracts for events at Strathmore.

C. **Waiver of Review:** Following the first Renewal Term, the Review Board, with the approval of the County Executive, may waive such review for the next subsequent Renewal Term only. Each opportunity for review must be expressly waived.

4. **RENT:** In consideration of Tenant's history of successfully operating Strathmore for more than 20 years, of stewarding the growth of programming at Strathmore as well as fostering Strathmore's recognition as a first class performing arts center; and for Tenant's assumption of significant operating expenses at Strathmore during the Lease Term; and for Tenant's past, current, and anticipated fund raising efforts to develop past and future satisfactory efforts with regard to the planning and execution of a coordinated development and endowment program for the Strathmore; and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, the County leases the County Premises to the Tenant for the sum of ONE AND 00/100S DOLLARS (\$1.00) per year and the payment of other costs as provided in this Lease.

5. **USE OF THE COUNTY PREMISES:** Tenant covenants and agrees that, during the Lease Term, Tenant will use the County Premises for activities that are consistent

with the purposes expressed within Tenant's Articles of Incorporation as follows, and for no other purpose (the "Permitted Uses"):

A. To foster and support the development of the Strathmore Hall Arts Center and the effective use of its facilities as a multi-disciplinary center for promoting and encouraging participation in and appreciation of the performing, literary and visual arts;

B. To restore, improve and maintain the Old Corby Mansion as an accessible arts center to sharpen the focus of community involvement, to facilitate activities and to enhance interests in the arts by young and old, amateur and professional , artist and audience; to make its rooms suitable and available for display of works of art while simultaneously providing attractive sites for intimate concerts, lectures, meetings, exhibitions, workshops, demonstrations, receptions and other events and activities consistent with the purpose of the Strathmore Hall Arts Center and the suitability of the Old Corby Mansion; to encourage or itself sponsor or underwrite such activities; to provide an insurance program to protect the personal property of the Strathmore Hall Arts Center and protect The Strathmore Hall Foundation, Incorporated from liability arising from its activities; to provide service facilities for cooperative use by community arts organizations; and

C. To promote and expedite, or itself undertake, the planning, design, financing and construction of other buildings, structures and facilities on the site, or properties of the Strathmore Hall Arts Center necessary or desirable for carrying out the full range of activities in the performing, literary and visual arts to which the Strathmore Hall Arts Center is dedicated; to encourage or itself sponsor or underwrite performances, programs, exhibitions and other activities on the site, properties or under the aegis of the Strathmore Hall Arts Center.

6. USE OF THE COUNTY PREMISES BY THE MONTGOMERY COUNTY DEPARTMENT OF RECREATION AND OTHER COUNTY AGENCIES:

It is the acknowledged intention of the Parties to cooperate in the development and promotion of activities at Strathmore, and to make Strathmore accessible to all County residents. To this end, Tenant agrees that, during the Term of the Lease, Tenant will:

A. Ensure that the Montgomery County Department of Recreation ("Department") has continuing access to Strathmore for art-related activities sponsored by the Department, both in terms of booking and at the lowest rental rate category established by the Tenant for comparable use of Strathmore; and

B. Cooperate with the County to schedule a minimum for at least four (4) official Montgomery County Government functions at Strathmore during each calendar year during the Lease Term without charge and as agreed by the Parties (the "County Events"). The Parties will cooperate to schedule the County Events so that the arts programming at Strathmore is not compromised.

7. **NAMING RIGHTS:** Tenant shall have the right to sell or lease naming rights to any buildings or portions of buildings at Strathmore as part of its fundraising efforts. Any naming rights granted shall be coterminous with the Term and any then current Renewal Term(s), and is transferable to any non-profit successor tenant except Montgomery County, Maryland

8. **CAPITAL IMPROVEMENTS AND SITE DEVELOPMENT:**

A. **Capital Improvements and Structural Alterations:** Tenant shall not undertake any structural alterations, structural changes, site improvements, or modifications requiring a building permit ("Structural Alterations") to the County Premises without the prior written consent of the County; County's consent will not be unreasonably withheld. Tenant shall not undertake any other alterations ("Alterations") to the County Premises without the prior written consent of the County, provided, however, that such consent as to Alterations that are

worth less than Five Thousand Dollars (\$5,000.00) shall be deemed granted if not denied by the County within 60 days after delivery of Tenant's written request for approval. Tenant shall be responsible for obtaining all necessary permits for construction at Strathmore, and for compliance with all building, zoning, and life safety codes and regulations then in effect. County, at no cost to Tenant, shall cooperate with Tenant's acquisition of such permits to the extent that County will be a co-applicant for permits where the law requires the consent of the Owner to prosecute a permit application. This provision must not be read to waive the County's right as the approving authority under any applicable building, zoning, or life safety laws or regulations reviewing applications submitted by Tenant. Failure by Tenant to adhere to any applicable building, fire, health, or life safety laws or regulations in making any improvements to Strathmore shall be deemed to be a violation of this Lease. The cost of any Alterations, unless otherwise agreed, shall be borne solely by the Tenant.

B. County's Approval and Inspection: Tenant agrees to keep County informed of any plans for any capital project at Strathmore. Tenant agrees that it will not enter into any contract for any new construction or renovation work at Strathmore without first obtaining the approval of the County in the County's capacity as Landlord and not in the County's capacity as administrator of any building, zoning, and life safety codes to undertake the proposed capital project. In order to secure County's approval of any Alterations to the Leased Premises and not in lieu of plan approvals required under applicable building, fire, health, or safety ordinances or regulations, Tenant shall, not less than 90 days before construction is to begin, submit to the County in its capacity as Landlord 95% complete plans and specifications clearly setting forth the work to be performed at Strathmore. County will have the right to comment on the proposed work, and to request changes in the plans and specifications prior to the time that Tenant submits the proposed capital project to the Maryland-National Capital

Park& Planning Commission ("M-NCPPC") for review under the mandatory referral provisions of Md. Ann. Code art. 28, §7-112 (1957 Code, 2003 Repl. Vol.), as amended from time to time. The Parties will cooperate to make any minor modifications requested by the County that will not unduly adversely affect the scope or timing of the proposed work. After substantial completion of the work, the County as Landlord as well as in the County's capacity as administrator of building, zoning, and life safety codes and regulations shall inspect the County Premises to determine whether or not the work has been satisfactorily completed. The approval of the work by the County as Landlord must not be construed to be the County's approval as administrator of applicable building, fire, health, safety or life safety codes or regulations. Tenant must obtain all required permits and licenses required for construction and occupancy of any tenant improvements at Strathmore.

C. Endowment Fund: During the Lease Term, Tenant will maintain the Endowment Fund established pursuant to an agreement pertaining to the Endowment Fund dated August 1, 1983, as modified by a letter dated August 3, 1990 from Eliot Pfanstiehl to Robert K. Kendal, Director OMB and by the First Amendment to the Endowment Fund Agreement dated October 1, 2004, copies of which are attached as Exhibits C-1, C-2, and C-3, respectively, and incorporated as if fully set forth in this Lease.

D. New Construction: Subject to the above conditions, Tenant shall have the non-exclusive right to plan, fund and execute new construction and capital improvements to the County Premises in addition to the Old Corby Mansion or the Venue; provided always that the construction and capital improvements by whomever planned, funded or executed shall be for the activities in the performing, visual or literary arts to whose promotion and use the site is dedicated, unless otherwise agreed in writing by the Parties ("New Construction"). Tenant must

secure County's consent to any such construction or improvements as provided in §§ 8.A and 8.B, above.

Any New Construction at Strathmore will, by virtue of its location within the County Premises, become the property of County. Any New Construction within the County Premises shall be considered a part of the County Premises as defined in Section 1, above, and may, in the County's sole discretion, be leased to the Tenant under the same terms and conditions of this Lease as amended from time to time for the remainder of the Term. The County expressly reserves the right to modify the Terms of this Lease as to payment of Rent and insurance requirements pertaining to the Lease of any New Construction. In the event of Tenant's dissolution, Tenant shall not be entitled to any compensation from the County for any such New Construction paid for by Tenant, except that the fair market value of any New Construction shall be deducted from Tenant's indebtedness to County, if any, including the repayment of the County's contribution to the operating Endowment Fund as set forth in Exhibits C-1, C-2, and C-3.

E. Sinking fund for the venue:

1. Commencing January 1, 2006, Tenant shall establish a separate account (the "Sinking Fund") to create a reserve to be used for necessary capital repairs and replacements to the furniture, fixtures and equipment of the Venue ("Sinking Fund Replacements") necessary to operate the Venue, all as provided on Exhibit D, which is attached and incorporated as if fully set forth in this Lease. Tenant shall deposit the sum of ONE HUNDRED THIRTY-THREE THOUSAND SIX HUNDRED THIRTY AND 00/100 DOLLARS (\$133,630.00) in the "Sinking Fund" on December 31, 2006 and annually every year during the Lease Term not later than the anniversary of the first payment. The Sinking Fund shall be used solely for the Sinking Fund Replacements as reflected on Exhibit D, unless the

Parties amend **Exhibit D** in a writing executed by both Parties. The Sinking Fund shall be maintained by Tenant in an interest bearing account at a federally insured banking institution with an office or branch located in Montgomery County, Maryland. In the event this Lease is terminated for any reason or is not renewed for any reason, the Sinking Fund shall be the property of Tenant, except that any payments that were due to be made out of the Sinking Fund at or prior to the date of termination must be made by Tenant at Termination.

2. Not later than February 1st of every year of the term, Tenant must submit an updated **Exhibit D** to the County itemizing the anticipated replacements and capital repairs which are anticipated to be made by the Tenant to the County Premises during that next 5 year period of the Lease Term (the "Annual Sinking Fund Reconciliation"). The Annual Sinking Fund Reconciliation must also include any adjustments proposed by the Tenant for the annual deposit into the Sinking Fund, which must be supported by justification satisfactory to the County. The Annual Sinking Fund Reconciliation will not be effective until approved by the County. Concurrently with the submission of the Annual Sinking Fund Reconciliation, Tenant must provide County with invoices and other evidence of the expenditures made from the Sinking Fund of the expenditures made from the Sinking Fund during the previous calendar year. Regardless of the date of Termination of the Lease, the final Annual Sinking Fund Reconciliation must be made at Termination, and will provide for all the disbursal of all money remaining in the Sinking Fund at that time.

3. Tenant shall construct, erect, undertake and complete or cause to be fully constructed, erected, undertaken and completed all of the Sinking Fund Replacement. Amendments to **Exhibit D** may only be made in writing signed by both Parties.

4. County may, at County's discretion and subject to appropriation by the Montgomery County Council, construct, erect, undertake and complete or cause to be fully

constructed, erected, undertaken and completed all necessary repairs and replacements, capital or otherwise not specifically listed as the responsibility of Tenant. Tenant has participated in the design and construction of the Venue, and specifically waives any right to require County to make any repairs to the design and construction of the Venue.

9. **MAINTENANCE AND OTHER RESPONSIBILITIES:**

A. **Maintenance:** During the Lease Term, the County will maintain and repair the roof and structural integrity of the Old Corby Mansion and the Venue, except to the extent that any repairs or unusual maintenance are required due to Tenant's negligence or misuse of the structures, or for any damage to the roofs or structures caused by any Alterations or New Construction by Tenant. Tenant will be solely responsible for the maintenance and repair of any New Construction by Tenant, and must provide adequate funds for repair and maintenance of the New Construction in the Annual Sinking Fund Reconciliation. County will maintain the grounds at Strathmore, including maintenance of the roads, walks and parking areas at Strathmore to the same standards as the County maintains internal roads and driveways, walks, and parking areas at all County facilities. Tenant may supplement County standard maintenance as required by Tenant in its reasonable judgment, except that the Tenant must notify the County of additional maintenance services provided by Tenant. Tenant must not deduct the cost of any enhanced maintenance from the Sinking Fund. County may repair or replace any damage to Strathmore caused by Tenant's maintenance contractors at Strathmore's sole cost and expense, which must not be deducted from the Sinking Fund. Other maintenance and repair responsibilities to the County Premises shall otherwise be made in accordance with **Exhibit E** which shows the relative responsibilities of the Parties for Facilities Maintenance, Security, Facility Housekeeping, Miscellaneous, Grounds Maintenance and Facility Utilities. All persons performing maintenance and repair responsibilities on behalf of the County under this Lease

shall perform such services under the direction of County's designated maintenance and repair supervisor ("Designated Supervisor") for the County Premises. The Tenant will designate a Vice President for Operations or an Operations Manager to communicate with the Designated Supervisor, and will advise County in writing of any changes in the designation of the Tenant's representative for operational matters. Tenant will make sure maintenance schedules and maintenance requirements and specifications are available to the County upon request.

B. Security: Tenant acknowledges that County does not provide personnel for controlling access to the County Premises or any other security services. Tenant will communicate with the County Police or the County Fire and Rescue Service as appropriate in emergency situations. When security is required, Tenant will make its own arrangements for whatever security it desires (if any) that is beyond the alarm system existing at the Mansion or that which is part of the Venue. The Tenant will provide the County with sufficient information concerning the security systems at Strathmore to permit the County to render police, fire, and emergency services protection.

C. Keys: Tenant acknowledges that County has provided Tenant with keys to the Old Corby Mansion and to the Venue. Tenant is responsible for safeguarding the keys in its possession, and in limiting access to the buildings on the Premises consistent with good fire safety and security practices. County will retain two (2) sets of keys to the Mansion and Venue, but will not enter either building, other than for provision of services described in this Lease. Except in cases of emergency, County will endeavor provide services required to be provided by the County under this Lease in a manner that minimizes interference with programming. Tenant will notify County in advance if Tenant is changing the locks to the Old Corby Mansion or the Venue, and will promptly provide two duplicate sets of all new keys to the buildings to County. County agrees to secure its sets of keys and not duplicate the same and, County shall request

from Tenant additional sets of keys, if necessary specifying the need for the same to Tenant. The Parties will provide each other with duplicate keys to any New Construction consistent with the provisions of this Paragraph.

10. FIXTURES AND EQUIPMENT: All items which are attached to the Buildings, or are a part of the Buildings' systems, shall remain with the Buildings and shall be delivered to Tenant as part of the County Premises. All fixtures, furniture, and equipment installed within the County Premises at Tenant's sole expense shall remain the property of Tenant and may be altered, replaced or disposed of in whatever manner Tenant deems appropriate. Tenant shall, however, repair any damage caused directly and exclusively by reason of said removal. Attached hereto as **Exhibit F** is the list of fixtures, furniture, and equipment which is the property of Tenant (purchased with funds of the Tenant), which list may be added to or deleted from time to time in Tenant's business determination. In the event Tenant vacates the County Premises prior to the expiration date of the Initial Term, County shall have the right to purchase for a sixty (60) day period from the date of notice of termination any items on said Exhibit F. The price shall be set at the fair market value at that time giving due consideration to the impact of depreciation.

11. LIABILITY, PROPERTY DAMAGE AND FIRE INSURANCE

Insurance provided by Strathmore.

Prior to the execution of this Lease, and any renewal hereof, Tenant, agrees to obtain at its own cost and expense the following insurance with an insurance company/companies licensed to do business in the State of Maryland and acceptable to Montgomery County's Division of Risk Management. Said insurance must be kept in full force and effect during the term of this Lease, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, Tenant shall provide to the County a copy of the insurance policies. Tenant's insurance shall be primary.

- 1) A policy of general Commercial Liability and excess insurance with a minimum total limit of liability of Five Million and 00/100 Dollars (\$5,000,000) per occurrence for bodily injury and property damage, including fire legal liability, premises and operations, independent contractors, personal injury and broad form property damage issued by an insurance company licensed in the State of Maryland.
- 2) A policy of Automobile Liability Coverage with a minimum limit of liability of One Million dollars (\$1,000,000), combined single limit, for bodily injury and property damage coverage per occurrence including owned automobiles, hired automobiles and non-owned automobiles.
- 3) A policy providing Workers Compensation Liability meeting all statutory requirements of the State of Maryland, and the following minimum Employers' Liability limits:
 - Bodily Injury by Accident - \$100,000 each accident
 - Bodily Injury by Disease - \$500,000 policy limits
 - Bodily Injury by Disease - \$100,000 each employee
- 4) An All-Risks Property Policy during the term of the Lease and any renewal terms to protect the full replacement value of all contents of the County Premises and all interests of Tenant, the County and the Property of Others against any loss including all artwork and personal property, either owned or the property of others. Any deductibles under this policy shall be funded by Tenant. The policy shall contain a maximum deductible of \$5,000 per occurrence.
- 5) The General Liability and any excess liability policies must name the County as an additional insured. All policies must provide the County with a forty-five (45) day advance notice of material amendment or cancellation. Tenant shall at least ten (10) days prior to October 1, 2004, deliver to the County a certificate(s) of insurance and certified copies of the insurance policies evidencing the foregoing insurance. The evidence of insurance shall be submitted to Montgomery County, Office of Real Estate, Tenth Floor, 101 Monroe Street, Rockville, Maryland 20850.
- 6) County reserves the right, if necessary, to review and revise the above coverage requirements every five (5) years to those customary at that time; provided that County provides Tenant at least a ninety (90) day notice of such revised requirements.

12. **HOLD HARMLESS:** Tenant agrees to hold harmless and defend the County from any claims of liability arising by virtue of the Tenant's use of the County Premises, or by virtue of any negligence on Tenant's part, except such negligence as may be occasioned solely by the acts or omissions of the County, and County's employees and agents; and further specifically agrees to hold County harmless and to defend it from any claim of liability made in connection with any subtenant or secondary users of the County Premises, except for such negligence as occasioned solely by the acts or omissions of the County, County's employees and agents.

13. **INDEMNIFICATION FOR ARTISTIC CONTENT:** County hereby acknowledges and agrees that it will have no approval rights with respect to the artistic content of the programs and performances at the County Premises. Tenant shall be solely responsible for, and shall indemnify and hold County harmless from and against any and all claims, liabilities, demands, suits, cause or causes of actions, judgments, obligations, fines, penalties, costs and expenses and reasonable attorneys' fees suffered or incurred by County and/or arising out of, or in any way connected to any claims, suits or proceedings brought against County based on the artistic content of the use of the County Premises by Tenant or anyone permitted by Tenant to use the County Premises. Tenant further indemnifies County against all costs and expenses for claims of direct or indirect infringement of any intellectual property rights or claims in connection with the use of the County Premises for programs, performances and sale of merchandise on the County Premises by Tenant, its employees, agents, contractors and licensees.

14. **RESPONSIBILITIES OF TENANT:** Tenant covenants and agrees as follows:

A. Tenant shall not strip, overload, damage or deface the County Premises or the fixtures therein or used therewith, nor suffer or permit any waste which diminishes the value of the County Premises.

B. Tenant shall not keep gasoline or other flammable material or any explosive within the County Premises which will increase the rate of fire insurance on the County Premises beyond the ordinary risk established for the Permitted Uses. Any such increase in the insurance rate due to the above, or due to Tenant's special operations within the County Premises, shall be borne by Tenant. Tenant shall not willfully do any act or thing in or about the County Premises which may make void or voidable any insurance on the County Premises, and Tenant agrees to conform to all rules and regulations established from time to time by the Maryland Insurance Rating Bureau, or any other authority having jurisdiction over such matters.

C. Tenant shall not use or allow to be used the County Premises or any part thereof for any illegal or unlawful purposes.

D. Tenant acknowledges that all responsibilities of Tenant relating to the use or misuse of the County Premises and anything therein shall be construed to include use or misuse thereof by Tenant's agents, employees, patrons and subtenants.

15. DESTRUCTION OF COUNTY PREMISES:

A. In the event that the County Premises are destroyed or damaged from whatever cause so as to render all or a substantial portion of the County Premises unfit for the Permitted Uses, and the Parties determine that repair of said destruction or damage cannot reasonably be accomplished by the County with available insurance proceeds within a reasonable period of time from the date of such damage, either Party may terminate this Lease by giving written notice to the other within ninety (90) days after the irreparable destruction or damage occurred.

B. In the event that County is able to undertake the repair of the County Premises with available insurance proceeds, County shall commence to do so within a reasonable period of time from the date of destruction or damage and diligently pursue the completion of

such repair. Tenant's obligation for maintenance and contributions to the Sinking Fund shall be abated during the period of repair.

C. In the event that County is unable to repair the County Premises as hereinabove provided, Tenant shall not be entitled to any compensation or payment from County for the value of any remaining Term of the Lease.

16. **DEFAULT:** Tenant shall be considered in default of this Lease upon the occurrence of any of the following:

A. Failure to perform under any term, covenant or condition of this Lease and the continuance thereof for sixty (60) days after written notice from County specifying said failure.

B. The commencement of any action or proceeding for the dissolution or liquidation of Tenant, or for the appointment of a receiver or trustee of Tenant's property, and the failure to discharge any such action within one hundred twenty (120) days.

C. The making of any assignment for the benefit of Tenant's creditors.

D. The abandonment of the County Premises by Tenant. Under this Lease, abandonment means any one or more of the following: i.) the failure of Tenant to secure programming for Strathmore for the upcoming season; ii.) cancellation of three (3) or more consecutive programmed events unless cancelled due to substantial damage to or destruction of the Old Corby Mansion or the Venue; iii.) written notice from the Tenant to the County that Tenant is quitting the County Premises prior to Termination of the Lease; iv.) Tenant's absence from the County Premises for a period of 30 or more consecutive days; or v.) the Venue going "dark" (i.e. no scheduled professional artistic performances) for more than 120 days during any calendar year.

In the event of default by Tenant under this Lease, the County will give the Tenant written notice of default and demand cure. In the event that the default continues for more than 30 days after written notice from County, then at the option of County or County's assigns, Tenant's right of possession shall terminate, and County may proceed to recover possession and seek other available relief under the laws of the State of Maryland.

17. **CONDEMNATION:** In the event the whole or a substantial part of the County Premises shall be taken for any public or quasi-public purpose by any lawful power or authority (except the County) by exercise of the power of condemnation or eminent domain, or sold to said authority under threat of such taking (collectively referred to herein as a "Taking"), County shall have the right to terminate this Lease effective as of the date possession is required to be surrendered to said authority. For purpose of this Section, a taking of 25 percent or more of the Leased Premises may be considered to be a Taking under this Lease if the Taking renders it commercially undesirable for County to permit this Lease to continue or to continue operating the County Premises. Tenant shall not assert any claim against County or the authority for any compensation arising out of or related to such Taking and County shall be entitled to receive the entire amount of any award without deduction for any estate or interest of Tenant; provided, however, nothing contained in this Section shall be deemed to give County any interest in any award that is made in addition to and separately stated from any award made to County for the County Premises and does not reduce the amount of the County's award.

18. **SECONDARY USERS:** Tenant shall be solely responsible for any arrangements with secondary users of the County Premises. Secondary uses include licensees, resident artists, and vendors of merchandise, goods, and services related to the Permitted Uses

19. **ASSIGNMENT AND SUBLEASING:** Tenant shall not assign this Lease or any portion of the County Premises without the consent of the County which consent shall not be

unreasonably withheld. Tenant shall have the right without County's consent or approval to enter into licenses, and concessions as Tenant deems necessary to support the Permitted Uses. Tenant shall remain liable under this Lease in the event of any assignment, license, concession or sublease.

20. NON-APPROPRIATION/TERMINATION FOR CONVENIENCE:

A. Non-appropriation: This Lease is subject to annual appropriations by the Montgomery County Council.

B. Termination for Convenience: County may terminate this Lease for convenience upon not less than 180 (one hundred eighty) days written notice to Tenant. The Lease shall terminate on the date specified in the notice and Tenant shall deliver the County Premises to County in accordance with the provisions of this Lease. County will work with Tenant to ensure that the date of any such termination for convenience does not occur while there are any outstanding programs scheduled, unexpired License Use Agreements pending or other similar outstanding commitments, unless County assumes full responsibility for the completion of contracts for those outstanding contracts. After receipt of such notice by Tenant, Tenant shall not schedule any programs, execute any License Use Agreements, or make any other similar commitments beyond the date given in the notice for such termination for convenience.

21. ACCESS: Tenant shall allow County and County's employees or agents to have access to the County Premises at all reasonable times for the purpose of inspection, or in the event of fire or other property damage, or for the purpose of performing any work required to be performed by County, or which County considers reasonably necessary, or for any other purpose pursuant to the reasonable protection of the County Premises. Such access shall not unreasonably or unnecessarily interfere with Tenant's normal use of the County Premises. Tenant shall provide County at all times with keys to the Buildings, said keys to be used by

County to obtain access to the facility in emergency situations and as otherwise provided in this Lease.

22. **SURRENDER OF POSSESSION:** Tenant covenants, at the expiration or other termination of this Lease, to remove all of Tenant's personal property from the County Premises, and to yield up to County the County Premises and all keys, locks and other fixtures connected therewith (except trade fixtures and other furnishings belonging to Tenant), in good repair, order and condition in all respects, reasonable wear and tear thereof and damage by fire or other casualty excepted.

23. **HOLDOVER:** In the event that Tenant shall continue to occupy the County Premises or any part thereof after the conclusion of the Term the tenancy thus created shall be deemed to be upon a month-to-month basis and may be terminated by either party giving the other not less than thirty (30) days' written notice, to expire on the day of the month from which the tenancy commenced to run. During any month-to-month tenancy, both parties shall continue to observe all agreements and covenants contained in this Lease, except that Tenant will be required to pay fair market value rent to the County monthly during the holdover tenancy according to instructions issued to the Tenant by the County.

24. **NOTICE OF DEFECTS:** Tenant shall give to County prompt written notice of accidents or damages to the County Premises. In cases of emergency, the notice may be given orally and confirmed in writing as soon as possible after the oral notice is given.

25. **WAIVER:** No waiver of any breach of any covenant, condition or agreement herein contained shall operate as a waiver of the covenant, condition or agreement itself or of any subsequent breach thereof.

26. **NON-DISCRIMINATION:** Tenant agrees to abide by the provisions Section 11B-33 and 27-19 of the Montgomery County Code (1994), as amended , as well as all other

applicable federal and state laws and regulations regarding employment discrimination. Tenant covenants that Tenant will not discriminate in awarding contracts or in providing programming on the basis of race, creed, national origin, gender, age, marital status, disability, or genetic status.

27. **CONTRACT SOLICITATION:** Tenant represents that Tenant has not retained anyone to solicit or secure this Lease from Montgomery County, Maryland, upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting for bona fide employees or bona fide established commercial, selling or leasing agencies maintained by Tenant for the purpose of securing business or an attorney rendering professional legal services consistent with applicable ethical and professional codes. Tenant is responsible for paying for the services of all of its employees, agents, brokers, and attorneys.

28. **PUBLIC EMPLOYMENT:** Tenant understands that unless authorized under Chapter 19A and § 11B-52 of the Montgomery County Code (1994), as amended, it is unlawful for any person transacting business with Montgomery County, Maryland, to employ a public employee for employment contemporaneous with his or her public employment.

29. **DISPUTES:**

A. **Governing Law; Construction:** This Lease shall be construed and enforced in accordance with the substantive laws of the State of Maryland, without regard to choice of law provisions. The language in all parts of this Lease shall in all cases be construed as a whole according to its fair meaning and not strictly for or against either County or Tenant.

B. **Disputed Resolution:** The County and Tenant agree that any dispute concerning a question of fact arising under this Lease which is not resolved by agreement of the parties shall be decided by the Chief Administrative Officer of Montgomery County, or his/her designee, who shall notify the parties in writing of the determination made.

The Tenant and County shall be afforded an opportunity to be heard and offer evidence in support of their respective positions. Pending final decision of a dispute hereunder, Tenant and County shall proceed diligently with the performance of all requirements and obligations under this Lease. The decision of the Chief Administrative Officer or his/her designee shall be final and conclusive.

30. MAILING NOTICES: All notices, demands, approvals, consents or other communications required or desired to be given hereunder by either part to the other shall be given in writing and delivered in person, by receipted overnight delivery service, or by certified mail, first class, postage prepaid to the party involved at the addresses below:

TENANT:

THE STRATHMORE HALL FOUNDATION, INCORPORATED
10701 Rockville Pike
North Bethesda, Maryland 20852
Attn: Mr. Eliot Pfanstiehl

With a copy to:

SHULMAN, ROGERS, GANDAL, PORDY & ECKER, P.A.
11921 Rockville Pike, Third Floor
Rockville, Maryland 20852
Attn: Lawrence A. Shulman, Esquire

LANDLORD:

Montgomery County, Maryland
101 Monroe Street, 2nd Floor
Rockville, Maryland 20850
Attn: Chief Administrative Office

and

Montgomery County Office of Real Estate
Department of Public Works and Transportation
101 Monroe Street, 10th Floor
Rockville, Maryland 20850
Attn: Director

With copies that don't constitute notice to:

Montgomery County Division of Operations
Department of Public Works and Transportation
101 Orchard Ridge Drive, 2nd Floor
Gaithersburg, Maryland 20878
Attn: Chief, Division of Operations

and
Office of the County Attorney
101 Monroe Street, 3rd Floor
Rockville, Maryland 20850
Attn: County Attorney

Any notice, demand, approval, consent or other communication delivered in person or by messenger service on normal business days and during normal business hours shall be deemed to have been given on the date delivered and any notice, demand, approval, consent or other communication given by mail shall be deemed to have been given three (3) days after the date it was sent by certified United States mail, return receipt requested, postage prepaid, addressed to the party to be served at said address or at such other address of which that party may have given notice under the provisions of this Section 30. Either Party may change its address by giving written notice of change of address to the other Party as required in this Paragraph.

31. GENERAL:

A. Captions: The captions and headings used in this Lease are for the purpose of convenience only and shall not be construed to limit or extend the meaning of any part of this Lease.

B. Executed Copy: Any fully executed copy of this Lease shall be deemed an original for all purposes.

C. Time: Time is of the essence for the performance of each term, condition and covenant of this Lease.

D. Separability: If one or more of the provisions contained herein is for any reason held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Lease, but this Lease shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

E. Gender; Singular, Plural: When the context of this Lease requires, the neuter gender includes the masculine, the feminine, a partnership or corporation or joint venture, and the singular includes the plural.

F. Binding Effect: The covenants and agreement contained in this Lease shall be binding on the Parties and on their respective heirs, successors and assigns to the extent this Lease is assignable.

G. Waiver: The waiver by County or Tenant of any breach of any term, condition or covenant, of this Lease by the other shall not be deemed to be a waiver of such provision or any subsequent breach of the same or any other term, condition or covenant of this Lease. No covenant, term or condition of this Lease shall be deemed to have been waived by County or Tenant unless such waiver is in writing signed by the waiving party.

H. Entire Agreement: This Lease is the entire agreement between the Parties, and there are no agreements or representations between the Parties except as expressed in this Lease. All exhibits, amendments, riders and addenda attached to this Lease are hereby incorporated into and made a part of this Lease. Except as otherwise provided in this Lease, no subsequent change or addition to this Lease shall be binding unless in writing and signed by the Parties.

I. Days of Week: If the date upon which any act is to be performed or notice is to be delivered under this Lease shall fall upon a Saturday, Sunday or legal holiday, such act or notice shall be timely if performed or delivered on the next business day.

J. Force Majeure: The performance of any obligation to be performed by County and Tenant under this Lease shall be excused for any period during which either Party is prevented from performing such obligation due to causes beyond such Party's control, including without limitation, strikes, lockouts or other labor disturbance or labor dispute, governmental regulation, moratorium or other governmental action, civil disturbance, war, war-like operations, acts of terrorism, invasions, rebellion, hostilities, sabotage, fires or other casualty, flooding, or other acts of God (collectively, "force majeure"). County and Tenant each agree to: (i) provide written notice to the other if County or Tenant is unable to perform any obligation imposed upon such Party in the time period required, if such inability to perform is due to force majeure, and (ii) use reasonable efforts to mitigate the effects of force majeure on the timely performance of such obligation.

K. Relationship of Parties: Nothing contained in this Lease shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent, partnership, joint venture, or any relationship between the Parties other than that of landlord and tenant.

L. Construction: This Lease shall be construed without regard to any presumption or other rule permitting construction against the Party causing this Lease to be drafted and shall not be construed more strictly in favor of or against either of the Parties.

M. Waiver of Jury Trial and Counterclaim: County and Tenant waive their right to trial by jury in any action, proceeding or counterclaim brought by either Party against the other on any matters arising out of or in any way connected with this Lease, the relationship of County and Tenant, Tenant's use or occupancy of the County Premises, and any emergency statutory or any other statutory remedy. Any action filed by either Party to enforce

the terms of this Lease or for any matter arising out of or in any way connected with this Lease must be filed in a Court of competent jurisdiction located in Montgomery County, Maryland.

32. **TERMINATION OF EXISTING LEASE:** The Parties hereby agree that upon the Effective Date, the prior lease dated August 13, 1983 shall be deemed null and void and the Parties shall be released from all obligations contained in that Lease.

33. **DEFRAYMENT PAYMENTS:** Tenant agrees to make payments to partially defray maintenance and utility costs for the Venue. Tenant agrees to make such payments in accordance with **Exhibit G**, which is attached and incorporated as if fully set forth in this Lease.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have caused this Lease to be properly executed
under seal on the date first written above.

WITNESS:

LANDLORD:

MONTGOMERY COUNTY, MARYLAND

By: JoAnne Poore

By: Duncan
Name: Douglas M. Duncan
Title: County Executive

Date: October 5, 2004

WITNESS:

TENANT:

**THE STRATHMORE HALL FOUNDATION,
INCORPORATED**

By: Mary Kay Omy

By: Eliot Pfansteihl
Name: Eliot Pfansteihl
Title: President

Date: October 1, 2004

(CORPORATE
SEAL)

Corporate Attestation:

I hereby certify that the above named individual
is authorized to execute this instrument on behalf
of THE STRATHMORE HALL FOUNDATION,
INCORPORATED.

Peter James Trukey
_____, Corporate Secretary

APPROVED AS TO FORM AND LEGALITY
OFFICE OF THE COUNTY ATTORNEY

By: Lillian J. Baseman
Date: 10/11/2004


STATE OF MARYLAND

ss:

COUNTY OF MONTGOMERY

On this 5th day of October, 2004, before me, the undersigned officer, personally appeared Douglas M. Duncan, County Executive of Montgomery County, Maryland, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same in his capacity as County Executive on behalf of Montgomery County, Maryland, for the purposes contained therein.

As witness my hand and notarial seal.


Notary Public
My Commission Expires:
June 1, 2006

STATE OF MARYLAND

ss:

COUNTY OF MONTGOMERY

On this 1st day of October, 2004, before me, the undersigned officer, personally appeared Eliot Pfansteihl, President, The Strathmore Hall Foundation, Incorporated, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same in his capacity as President on behalf of The Strathmore Hall Foundation, Incorporated, for the purposes contained therein.

As witness my hand and notarial seal.


Notary Public
My Commission Expires:
January 1, 2006
S. C. FOLLOCK
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires January 1, 2006

AFTER RECORDING RETURN TO:

Cynthia L. Brenneman
Director, Office of Real Estate
Department of Public Works and
Transportation
101 Monroe Street, 10th Floor
Rockville, MD 20850-4168